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Environmental head pitches to keep job Nolin's term has been politically charged

By CHELSEA CONABOY

Monitor staff

Department of Environmental Services Commissioner Mike Nolin's term expires next month, and he's lobbying hard for another three years in the position, even as Gov. John Lynch is interviewing candidates who could take his place.

The position is a politically charged one. The department and its nearly 470 employees issue permits for all major construction projects, regulate air and water quality, and manage waste. In fast-growing New Hampshire, the person who sets the tone for the department also plays a big role in how the state develops.

Lynch plans to take his time deciding who's best suited for the job, said spokeswoman Pamela Walsh. Walsh said Lynch is interviewing people who are interested, including Nolin, who was appointed by former governor Craig Benson.

"When he believes he's found the best candidate, he'll bring the nomination forward," Walsh said. "He's going to make sure he does it right."

Nolin, a New Hampshire native who lives in Canterbury, says he wants to be reappointed to continue projects he's started, such as improving waste management and "smart growth" initiatives.

Nolin's advocates say he has added a sensibility to the department that was missing, improving collaboration among state agencies and speeding up a slow permitting process. Opponents say he has weakened environmental controls and lowered morale in the department.

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Lynch's nominee will need three votes from the Executive Council to be approved. Two councilors, Ray Wieczorek and Ray Burton, say they would support Nolin for another term. Councilors Debora Pignatelli and Peter Spaulding say they are waiting to see what Lynch's move is. Councilor Ruth Griffin did not return messages last week.

Wieczorek said the majority of the letters he has received on the position support Nolin for the job. "I'm not of the opinion that we ought to be making a change when things are going well," Wieczorek said.

Those who are concerned about Nolin's leadership say Lynch deserves to choose a commissioner who

reflects his opinions.

"We have a lot of faith in Gov. Lynch's vision for the environment, and we believe that he should have the ability to bring forward his nomination," said Jay Ward, political director for the State Employees' Association.

The association first became concerned with Nolin's leadership in January 2004, when 16 employees were laid off to save money. Later that year, the Seacoast wetlands administrator Dori Wiggin was moved to a Concord office after she twice cited Benson for wetlands violations. Another employee who had cited a company for which Nolin was once vice president was also transferred.

The department said the transfers were part of a management rotation. Outcry at the State House prompted legislation that would have moved Wiggin back to her old post, to which she returned to last summer.

Ward said the transfers sent "a chilling message" through the department that "it's more important to be political than it is to do your job." He said that feeling has lingered.

Although a relative unknown among the environmental community, Nolin was not new to the department when he took over as commissioner three years ago. He had spent several years in the 1980s in what was the Water Supply and Pollution Control Division. In 1987 he returned to engineering in the private sector and was working for a Manchester firm before his appointment.

During his term, the department has dealt with some heated issues, including the permitting of USA Springs to withdraw groundwater from Nottingham and Barrington, the debate over how to control mercury emissions from the state's coal power plants and the environmental impact of the Interstate 93 widening.

In some cases, Nolin's listening skills have earned him respect from environmentalists.

Until last year, the commissioner backed the department's decision to issue permits to Bio Energy's Hopkinton plant allowing the company to burn construction and demolition debris, a project the governor objected to. The plant would have become the state's largest industrial emitter of lead.

After setting up a series of meetings with Bio Energy opponents, Nolin changed his mind, said Scott Flood, a founding member of opposition group REACH.

With Nolin's support, the Legislature passed a moratorium on construction and demolition debris burning and recently extended the ban.

"We would not have gotten either one of those bills if it had not been for the assistance of the commissioner lobbying in conjunction with the governor's office," Flood said.

The commissioner took criticism for a recent decision to allow the Laconia Airport Authority in Gilford to fill 14 acres of wetlands to make runway improvements and to meet a deadline for a federal grant. The wetlands were labeled by the town as "prime" for special protection.

Critics said the permit bypassed important laws that prohibit construction in prime wetlands. Rick Russman, president of the Granite State Conservation Voters Alliance, said the airport could have asked the Legislature to consider amending the laws in question.

"Certainly if it was a matter of public safety, the Legislature would have listened to that," he said. He went on to say, "Public safety is a prime concern, but this was not an emergency situation."

Executive Councilor Burton praised Nolin's quick work. He said Nolin's help in securing the grant money "more than qualifies him for another term and even terms after that if he wants to stay."

Those familiar with DES's work say the balance between serving the public interest and protecting natural resources is tough to strike.

Nolin said he has tried to do that, in part, by improving the department's permitting process. He said he has enforced deadlines and cross-trained staff to help avoid back logs. He hopes to have an online permitting system available within a year.

Faster permitting is one reason the Associated General Contractors of New Hampshire, which represents 120 builders and highway contractors in the state, has asked the governor to reappoint Nolin.

Executive Vice President Gary Abbott, who sent letters to the governor and council on Nolin's behalf, said the commissioner has made the department easier to work with and has allowed his group to give input into regulation changes.

Others argue that a faster system doesn't mean a better one.

In the last year, the state had denied an application to add a 30-foot permanent dock to a summer home Alton Bay four times, twice by the Wetlands Bureau and twice by the Wetlands Council.

The applicant told the commissioner in a letter following the final denial that he has a heart condition that makes the instability of a temporary dock difficult. In March, Nolin signed a permit to allow the dock.

While there's no record in DES files of a meeting, Nolin said he will sometimes meet with applicants and division heads to discuss unique cases.

"We'll look at the concerns, and we'll see if there is any way we can come up with a compromise," he said. "It's not a decision that's made in a vacuum. It's not a decision that's made entirely by me."

Russman said Nolin circumvented the professionals in his department and his advisory council to issue the permit.

"There's a difference between getting things done and taking shortcuts or shortchanging the environment," Russman said.

Brian Fowler, chairman of the Wetlands Council and a geologist who has worked with the department through permitting boards for 15 years, said the case is an example of Nolin's good judgment. "It looks sort of funny," he said. "I know it does." But he said it shows Nolin's willingness to listen to people with special circumstances.

"He understands the environmental requirements of the law and the importance of saving the resources," he said. "He's constantly demanding that people come up with practical ways that actually do it."

Fowler said he has heard that there are people in the department who don't like Nolin. He said he supposes it's because his practical approach doesn't mesh with their philosophy for how the department should be run.

O'Brien, who left the department because Nolin did not reappoint him as division head, said he hears about discontent within the department due to decisions being taken out of the hands of those whose job it is to make them.

The permitting process "has been characterized as compliant: If you need something, come see me and we'll make you happy," O'Brien said. "That's not the way that department is meant to run, nor is it the way the statute intends it to run. . . . It has all appearances of efficiency and effectiveness and getting the job done, and you have to question what is being given up."

Walsh could not offer a timeline on when the governor may make an appointment. Nolin's term is up on July 7. If no appointment is made by then, he would continue as a holdover.

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